

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

R.S.A. No.479 of 2007

Date of Decision:19.2.2007.

Smt. Narayani and others

....Appellants.

Versus

Jot Ram and others.

...Respondents.

CORAM : Hon'ble Mr. Justice Hemant Gupta.

Present:- Mr.A.K.Goel,Advocate
for the appellant.

HEMANT GUPTA, J.(ORAL)

The plaintiffs are in Second Appeal aggrieved against the judgment and decree passed by the First Appellate Court whereby the suit for declaration to the effect that the plaintiffs are in joint possession of the suit land was dismissed.

It has been found that the order of partition has been passed on 3.10.1991. The said order was challenged in appeal before the Collector, by the plaintiffs but the said appeal was dismissed. The plaintiffs have not taken objection in partition proceedings that khasra No.480 has not been included. Only in execution proceedings before the revenue authorities the plaintiffs have raise objection to that khasra number 480 which has not been included in partition proceedings vide objection Ex-D7.

However, the learned First Appellant Court found that from the documents Ex-P1 and P2, it is clarified that one Gopal s/o Man Singh is

recorded as owner of half share of Khasra No.480, whereas plaintiffs and defendants are recorded as owner of remaining share. It was thus found that since the owner of major portion of the land was not party to the partition proceedings, therefore, partition in respect of the land bearing khasra No.480 could have been separately effected and cannot be included in the present partition proceedings.

I do not find that the said approach of learned First Appellant Court suffers from any illegality or irregularity. The parties in the present suit are not the exclusive owner of khasra No.480. ½ share part of the land is owned by one Gopal as well. Therefore, it is not open to the plaintiff to dispute the order of partition merely on the ground that the said khasra number is not part of the partition proceedings.

The finding of facts are sought to be disputed by re-appreciating of evidence. Such finding do not give rise to substantial question of law in the present appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

19.2.2007.
Reema